

PLANNING COMMISSION MINUTES

May 14, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter.

Development Services Manager Steven Sparks, AICP, Associate Planner Scott Whyte, AICP, Senior Transportation Engineer Randy Wooley, Development Services Engineer Jim Duggan, Senior Transportation Planner Don Gustafson, Assistant City Attorney Ted Naemura, and Record-ing Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Associate Planner Scott Whyte announced that the applicant has requested a continuance until May 28, 2003 for the applications CU 2002-0036 and DR 2002-0231 – Murrayhill Safeway Fuel Station.

1 **OLD BUSINESS:**

2
3 **PUBLIC HEARINGS:**

4
5 **A. MURRAYHILL SAFEWAY FUEL STATION**

6 **1. CU 2002-0036 – CONDITIONAL USE**

7 **2. DR 2002-0231 – DESIGN REVIEW**

8 The applicant requests approval for the construction of a
9 12-fuel pump gas station that will displace 45 parking
10 spaces in the southeasterly portion of the parking lot of
11 the existing Murrayhill Marketplace. Fuel sales will
12 occur on the site and an approximately 300 square foot
13 kiosk will be built under an approximately 8,200 square
14 foot fuel canopy for gas station attendants.
15

16 Commissioner Pogue **MOVED** and Commissioner Johansen
17 **SECONDED** a motion to **CONTINUE** CU 2002-0036 – Murrayhill
18 Safeway Fuel Station Conditional Use to a date certain of May 28,
19 2003.
20

21 Motion **CARRIED** unanimously.
22

23 Commissioner Pogue **MOVED** and Commissioner Winter
24 **SECONDED** a motion to continue DR 2002-0231 – Murrayhill
25 Safeway Fuel Station Design Review to a date certain of May 28, 2003.
26

27 Motion **CARRIED** unanimously.
28

29 Chairman Barnard opened the Public Hearing and read the format for
30 Public Hearings. There were no disqualifications of the Planning Com-
31 mission members. No one in the audience challenged the right of any
32 Commissioner to hear any of the agenda items, to participate in the
33 hearing or requested that the hearing be postponed to a later date. He
34 asked if there were any ex parte contact, conflict of interest or disquali-
35 fications in any of the hearings on the agenda. There was no response.
36

37 **B. SUNRISE AT COOPER MOUNTAIN**

38 On January 13, 2003, the City of Beaverton City Council
39 granted a request submitted by the applicant to remand all
40 three development applications for Sunrise at Cooper Mountain
41 to the Planning Commission for further consideration based on
42 the understanding that the development plan would be revised
43 to address the Planning Commission's concerns.
44

The following land use applications have been submitted for development of a 60-unit single-family residential project originally proposed for 69 units. The subject site is generally located east of SW 166th Avenue, south of Nora Road, northwest of SW Cinnabar Court and SW 163rd Avenue. The site can be specifically identified as Tax Lot 100 on Washington County Assessor's Map 1S1-30DD, Tax Lot 300 on Washington County Assessor's Map 1S1-29CC, and Tax Lot 800 on Washington County Assessor's Map 1S1-29-C. In addition, the revised development plan includes the southeast corner of Tax Lot 800 on Washington County Assessor's Map 1S1-29CB, which is located within Washington County, for the purpose of constructing a portion of the public street that would provide public access to SW Nora Road (the Arterial). All other Tax Lots identified above are located within the City of Beaverton, are zoned R-5 Urban Standard Density, a zone in which single-family detached dwellings are permitted outright and a request for a Planned Unit Development (PUD) is subject to Conditional Use Permit (CUP) approval, and together total approximately 15.8 acres in size.

1. CUP 2002-0004 and APP 2003-0001 – SUNRISE AT COOPER MOUNTAIN PLANNED UNIT DEVELOPMENT CONDITIONAL USE PERMIT

The applicant requests approval of a revised PUD (for 60 single-family residential lots with lots ranging in size from approximately 5,000 square feet to approximately 15,000 square feet. In addition, the applicant proposes five separate tracts of land intended for the purpose of open space, tree preservation, water quality, and access. The proposed request for PUD would allow variation to the building setback standards of the R-5 zone found in Development Code Section 20.05.50. A decision for action shall be based upon the CUP approval criteria for a PUD as listed in Development Code Section 40.05.15.3.C and is subject to review of the special condition criteria as listed in Development Code Section 40.05.15.3.D.

2. TPP 2002-0005 and APP 2003-0002 – SUNRISE AT COOPER MOUNTAIN TREE PRESERVATION PLAN

The applicant requests approval of a Tree Preservation Plan for a portion of the subject site area that is listed within the City's Significant Tree Inventory as Significant Tree Grove No. NX1. Pursuant to Development Code

1 Section 40.75.15.1.A.3, a TPP is required when
2 development is proposed within a significant tree grove.
3 The applicant's TPP has been revised to incorporate trees
4 located within the southeast portion of Tax Lot 800 of
5 1S1-29CB, identifying a total of 759 trees for removal and
6 614 trees to be preserved. A decision for action on the
7 proposed TPP shall be based upon the TPP approval
8 criteria listed in Development Code Section
9 40.75.15.1.C.3.

10 **3. SB 2002-0010 and APP 2002-0012 - SUNRISE AT**
11 **COOPER MOUNTAIN SUBDIVISION**

12 . The applicant requests approval of a revised subdivision
13 plan for 60 single-family residential lots with tracts of
14 land intended for the purpose of open space, tree
15 preservation, water quality, and access. While the
16 previously proposed subdivision provided for 69 lots and a
17 total of 29 tracts, the revised subdivision plan proposes to
18 provide vehicular access to SW Nora Road north of the
19 project site. A decision for action on the proposed
20 subdivision shall be based upon the approval criteria
21 listed in Development Code Section 40.35.15.3.C.
22

23 All Commissioners indicated that they had visited and were familiar
24 with the site and had no contact with any individual(s) with regard to
25 this proposal.
26

27 Associate Planner Scott Whyte introduced himself and Development
28 Services Engineer Jim Duggan and presented the Staff Reports, plans,
29 and associated materials. He provided a brief history of the original
30 application and the denial by the Planning Commission, observing that
31 the applicant had subsequently appealed to the City Council, who had
32 remanded the issue back to the Planning Commission for further
33 consideration, based upon the understanding that the development
34 plan would be revised to address the concerns expressed by the
35 Planning Commission. Observing that these revised plans and
36 materials had been submitted by the applicant and distributed to
37 members of the Planning Commission, he pointed out that page 8 of
38 the Staff Report pertaining to the Conditional Use Permit (CUP) for
39 the Planned Unit Development (PUD) summarizes the proposed plan
40 revisions. He briefly identified the proposed plan revisions, as follows:
41

- 42 1. **Number of Lots** – reduced from 69 to 60 single-family
43 residential lots;

2. **Setbacks** – the proposed three-foot side-yard setbacks have been revised to meet the minimum R-5 side-yard setback standard, although PUD approval is necessary for the applicant's proposed reduction to minimum rear yard setbacks of this zoning district as requested for certain lots within the PUD;
3. **Lot Size** – the revised plat has increased the lot sizes so that none are less than 5,000 square feet in size in order to meet the minimum lot size standard of the R-5 zoning district;
4. **Access Points** – in addition to the previously proposed two vehicle access points to the subject site, the applicant now proposes an additional access to SW Nora Road (the arterial) via the proposed extension of SW Diamond View Way, although this access is proposed to be gated to temporarily block vehicular access to SW Nora Road.
5. **Consolidated Open Space Tracts** – although the prior proposal involved the creation of several private open space tracts intended for separate ownership, the revised PUD identifies two open space tracts, both of which would be owned and maintained through a Home Owner's Association (HOA).
6. **75% Cul-de-sac Improvement** – although the prior proposal involving the PUD and Subdivision included a half-cul-de-sac at the end of SW 164th Avenue, the revised plan increases the cul-de-sac bulb to 75%, as recommended by the Facilities Review Committee.

Mr. Whyte explained that a further description of the revised plan is provided on page 11 of the PUD/CUP Staff Report, adding that the Facts and Findings are described on pages 13 through 38, and briefly discussed the proposed Conditions of Approvals listed on pages 38 through 43. Concluding, he recommended approval of all three revised applications, including associated Conditions of Approval, and offered to respond to questions.

Development Services Engineer Jim Duggan mentioned an Administrative Subdivision approval from the year 2001 that has recently been granted an extension, observing that Azoic Terraces is located on the north side of SW Nora Road, immediately west of the power line corridor. He explained that this approval proposes to provide the sanitary sewer extension that is referenced in the drawings for the development Sunrise at Cooper Mountain. He discussed a proposed Condition of Approval that has been created in an effort to address the timing of permit issuance for the two subdivisions in the event of potential overlapping constructions schedules, emphasizing

1 that both are dependent upon the same sanitary sewer extension. He
2 disclosed that this proposed Condition of Approval had been initiated
3 in response to a telephone conversation and request by Commissioner
4 Bliss, emphasizing that this rather extensive proposed Condition of
5 Approval addresses three potential scenarios, as follows:

- 6
- 7 • The Sunrise at Cooper Mountain development could potentially
- 8 occur follow the Azoic Terraces development with respect to the
- 9 timing of permit issuance;
- 10 • The Azoic Terraces development is not under construction at the
- 11 time the site development permit is issued for the Sunrise at
- 12 Cooper Mountain development; and
- 13 • Both Sunrise at Cooper Mountain and Azoic Terraces
- 14 developments occur at relatively the same time, and specifically
- 15 which development could potentially delay the other
- 16 development.

17

18 Concluding, Mr. Duggan reiterated that both developments are
19 dependent upon the construction of the same length of sewer, pointed
20 out that whichever development occurs first would be responsible for
21 satisfying applicable criteria, and offered to respond to questions.

22

23 Expressing his appreciation to Mr. Duggan for his efforts,
24 Commissioner Bliss expressed his opinion that the issue had been
25 appropriately addressed.

26

27 On question, Mr. Duggan advised Commissioner Maks that he is
28 requesting this Condition of Approval with regard to this specific
29 application.

30

31 Commissioner Maks pointed out that the applicant for Sunrise at
32 Cooper Mountain would have to address this issue whether Azoic
33 Terraces is involved or not, observing that he is concerned with making
34 a decision with regard to one applicant based upon the actions of
35 another development over which he has no control.

36

37 Commissioner Bliss described a similar situation that created
38 problems that could have been avoided by addressing this issue.

39

40 At the request of Commissioner Johansen, Mr. Duggan indicated the
41 location of Azoic Terraces on the illustration, observing that this
42 proposed development is located to the northeast of the proposed
43 development Sunrise at Cooper Mountain, and immediately to the
44 west of the power line corridor.

1
2 Mr. Whyte referenced correspondence that has been received,
3 observing that those received prior to May 2, 2003 have been included
4 within the Staff Reports. He described additional correspondences
5 that have been received since that date, as follows:

- 6
7
 - 8 • Letter from Michael Griffiths, dated May 4, 2003;
 - 9 • E-mail from Sandra Troon, dated April 30, 2003;
 - 10 • Letter from Jim VanOsdell and Celeste Kirk, received May 14,
11 2003;
 - 12 • Letter from the applicant's attorney and representative, Phillip
13 E. Grillo of *Miller Nash LLP*, requesting elimination of
14 Condition of Approval No. 9 for the PUD/CUP, with regard to
15 removal of the gates; and
 - 16 • Letter from Washington County indicating that they have recog-
17 nized some of the improvements that have occurred, including
18 the reconstruction of SW 170th Avenue at the intersection of SW
19 Spellman Drive, with regard to sight/stopping distance.

20 Concluding, Mr. Whyte offered to respond to questions.

21
22 Commissioner Bliss referred to Condition of Approval No. 3-e
23 pertaining to the PUD/CUP, specifically with regard to a two-foot
24 chain-link fence along the conservation easement, and expressed his
25 opinion that this is an obstacle and creates a liability. He pointed out
26 that as an applicant, he would object to this requirement, adding that
27 if the intent is delineation, it would be more appropriate to provide a
28 two-rail split-wood fence, approximately 30-inches in height, and
29 explained that this would be more suitable to the site and would
30 provide access for the property owner.

31
32 Mr. Whyte noted that Condition of Approval No. 3-e references either a
33 chain-link or wood fence, expressing his opinion that this condition
34 provides the applicant with adequate latitude.

35
36 Commissioner Bliss pointed out that in his experience a solid fence at
37 the rear of a property generally ends up with all debris ending up on
38 the other side of the fence, irregardless of any HOA. He expressed his
39 opinion that a five-foot chain-link fence creates an obstruction and an
40 invitation to dump debris.

41
42 Mr. Whyte clarified that staff has identified three various types of
43 fencing that would serve different purposes.
44

1 Referring to Condition of Approval No. 9.a on page 41, Commissioner
2 Bliss pointed out that the third line from the bottom should be
3 corrected, as follows: "...are not to be constructed to a height that is
4 greater than..." He mentioned that there is a conflict between
5 Condition of Approval No. 6.e and Condition of Approval No. 13.

6
7 Mr. Whyte explained that Condition of Approval No. 6.e simply
8 clarifies the type of fence to be installed, specifically dark green vinyl-
9 coated fencing.

10
11 Commissioner Maks suggested the possibility of including the purpose
12 of the fencing, specifically a conservation easement, within the
13 Condition of Approval.

14
15 Commissioner Voytilla referred to Condition of Approval No. 3.e,
16 observing that while the proposed fence shall be maintained and
17 repaired as needed there is no indication with regard to who is
18 responsible for the maintenance and repair, emphasizing that this is
19 very confusing.

20
21 Mr. Whyte indicated that staff is not proposing that the HOA should
22 assume responsibility for maintenance of the trees and fences in
23 private yards, adding that Condition of Approval No. 3.e should
24 provide that the maintenance and repair be the responsibility of the
25 individual property owners.

26
27 Commissioner Voytilla pointed out that the same issue is involved in
28 Condition of Approval No. 6.e.

29
30 Development Services Manager Steven Sparks advised Commissioner
31 Maks that the Conditions of Approval express what is going to occur,
32 rather than background or intent, which is appropriately included
33 within the Staff Report.

34
35 Commissioner Maks questioned whether the Condition of Approval
36 could be revised to provide that the fencing is to be maintained by each
37 individual property owner.

38
39 Mr. Sparks concurred that this revision would be appropriate as a
40 clarification.

41
42 Commissioner Bliss referred to page 11 of 21 of the Facilities Review
43 within the PUD/CUP Staff Report, specifically Condition of Approval
44 No. 13, which provides for a chain-link construction fence a minimum

1 of six-feet in height, observing that Condition of Approval No. 6-e
2 suggests a different type of temporary fence.

3
4 Mr. Whyte pointed out that this construction fence is temporary.

5
6 Commissioner Bliss expressed his opinion that this issue is confusing.

7
8 Commissioner Maks mentioned that Facilities Review Condition of
9 Approval No. 13 does not include what he referred to as the standard
10 boiler plate requirement that the fencing should be highlighted by
11 colored flagging and that no storage shall be permitted within the
12 fenced area.

13
14 Mr. Whyte advised Commissioner Maks that the storage issue is
15 addressed within Conditions of Approval for the Tree Preservation
16 Plan (TPP) but the flags are not.

17
18 Commissioner Bliss referred to page 13 of 21 of the PUD/CUP
19 Facilities Review, specifically Condition of Approval No. 14, which
20 provides that no tree with a mature height greater than 12 feet shall
21 be allowed within five feet of a public utility or a publicly-owned utility
22 structure, and questioned whether this is addressed through any
23 provision within the Development Code.

24
25 Observing that this is not established within the Development Code,
26 Mr. Duggan explained that the purpose of this Condition of Approval is
27 to avoid having large trees and their trunks on top of or so close to a
28 sewer line, manhole, or other structure, observing that this could
29 create problems for both the tree and the utility at some future point.
30 He noted that this only deals with trees that would be placed or
31 planted within that area, rather than existing trees, emphasizing that
32 the intent is to avoid future conflict, rather than interfere with a
33 proposed development.

34
35 Commissioner Bliss expressed concern with the fact that existing trees
36 are not addressed within the Condition of Approval, emphasizing that
37 this distinction should be noted.

38
39 Mr. Duggan suggested that Condition of Approval No. 14 should be
40 revised, as follows: "No tree (with a mature height greater than 12
41 feet) shall be ~~allowed~~ **planted** within five feet..."

42
43 Referring to a conversation with Building Official Brad Roast,
44 Commissioner Bliss discussed a report submitted by *Carlson Testing*

1 with regard to geotechnical testing to be conducted beneath the new
2 road. He pointed out that this report references a geological fault that
3 could create unstable soils that could potentially result in liquefaction
4 in the event of an earthquake, observing that he is concerned with the
5 absence of any recommendations pertaining to this issue. He noted
6 that he is concerned with Comprehensive Plan Criteria 8.5 which
7 addresses seismic hazards in the form of liquefaction and ground
8 shaking, emphasizing that while this criteria indicates that seismic
9 hazards should be addressed, it does not clarify who is responsible.
10

11 Mr. Whyte indicated that the information has been entered into the
12 record, observing that geotechnical documentation had been included
13 within the packet from the Public Hearing of December 11, 2003. He
14 pointed out that this had not been identified as an issue of concern by
15 the Planning Commission at that time.
16

17 Mr. Sparks clarified that it is not the purpose of this body to become
18 involved in engineering design for improvements such as this culvert
19 road or proposed buildings. He explained that seismic code
20 requirements are addressed through the permitting process, adding
21 that the road would need to adhere to the appropriate standards
22 within the Engineering Design Manual and that this would be
23 assessed during the review of the construction plans.
24

25 On question, Mr. Whyte advised Commissioner Maks that although
26 the proposed number of units had been reduced from 69 to 60, the
27 application would still meet the minimum density requirements.
28

29 Referring to page 39 of the PUD/CUP Staff Report, specifically
30 Condition of Approval No. 3.b, which addresses the dumping of ashes,
31 trash, garbage, refuse, junk, lawn clippings, or unsightly or unsanitary
32 material within the conservation easements identified for resource
33 protection and which is also carried forward in other Conditions of
34 Approval, Commissioner Maks suggested that this should also include
35 dirt.
36

37 Mr. Whyte indicated that staff would be receptive to including dirt
38 within this Condition of Approval.
39

40 Commissioner Maks requested clarification with regard to the
41 placement of the access easements to Tract E and the width of an
42 access easement.
43

1 Mr. Whyte stated that the width of an access easement would only
2 require enough room for an individual to gain access, adding that this
3 easement would not necessarily have to be wide enough for a vehicle.
4

5 Commissioner Maks questioned whether staff is in support of the
6 applicant's request to eliminate the gates to SW Nora Road.
7

8 Mr. Whyte concurred, advising Commissioner Maks that this has been
9 identified as a Condition of Approval.
10

11 Commissioner Maks complimented Mr. Whyte for his excellent grasp
12 of some extremely complicated issues involved with this proposal.
13

14 Commissioner Johansen referred to page 9 of the Staff Report for the
15 PUD/CUP, requesting that line 3 of paragraph 3 be amended, as
16 follows: "...vicinity of the project site on April 10, ~~2002~~ **2003**."
17

18 Commissioner Johansen referred to page 43 of the Staff Report for the
19 PUD/CUP, requesting that Condition of Approval No. 15 be amended,
20 as follows: "The two gates shown **on** the proposed extension of SW
21 Diamond..."
22

23 On question, Mr. Whyte agreed with Commissioner Johansen's
24 comment that with the removal of the gates, there are no impediments
25 with regard to connecting SW Diamond View way to SW Nora Road,
26 noting that the removal of these gates would allow vehicle access. He
27 explained that the improvement for that access through Tract B would
28 have to occur as part of the site development permit plans, adding that
29 this should be implemented prior to the issuance of building permits.
30

31 Referring to page 15 of the Staff Report for the PUD/CUP, specifically
32 Section D pertaining to special conditions, Commissioner Winter
33 expressed concern with regard to what is considered to be common
34 open space. He pointed out Section d.3.a.(2) indicates that the common
35 open space is for amenity or recreational purposes, observing that it is
36 his understanding that this area is closed, and questioned whether it is
37 accurate that there is no access to this open space.
38

39 Mr. Whyte advised Commissioner Winter that with the exception of
40 maintenance access, there is no pathway access to this open space.
41

42 Commissioner Winter reiterated that this section references
43 recreational purposes.
44

1 Mr. Whyte pointed out that the section also references amenity,
2 observing that this could involve a passive-type open space area.

3
4 Commissioner Pogue questioned whether any provision would prevent
5 a homeowner from installing a gate in the chain-link fence in order to
6 access the open space area.

7
8 Mr. Whyte explained that the HOA would be responsible at least for
9 the fence along Lots 40 through 55, adding that the maintenance cost
10 would be covered through a fee collected by the HOA, and pointed out
11 that the installation of the gate would be a violation of the agreement.

12
13 Commissioner Pogue questioned whether staff has responded
14 appropriately to letters submitted by members of the public.

15
16 Mr. Whyte noted that there have been many letters submitted in
17 support of the proposed removal of the gate.

18
19 Commissioner Pogue concurred with Commissioner Maks' comment
20 that Mr. Whyte had done a good job of presenting the vast amount of
21 information involved in this proposal.

22
23 Chairman Barnard requested clarification with regard to the 550
24 vehicular trips that the ITE Manual indicates would be generated by
25 this proposal.

26
27 Senior Transportation Engineer Randy Wooley advised Chairman
28 Barnard that it is estimated that each household would generate 10
29 vehicular trips per day.

30
31 Observing that 600 daily vehicular trips are involved, Chairman
32 Barnard pointed out that SW Nora Road is very narrow and has not
33 been improved. Pointing out that this road already has a great deal of
34 traffic, he questioned whether staff anticipates any problems in
35 conjunction with the additional traffic.

36
37 Mr. Wooley noted that the City of Beaverton has already funded traffic
38 calming on that portion of SW Nora Road, from the dip up to SW 155th
39 Avenue, adding that in addition to this slowing the traffic down, a
40 shoulder has been proposed on one side of the road in order to provide
41 a place for pedestrians to be out of the way of traffic. He explained
42 that the traffic calming has already been funded and that the shoulder
43 is one of the Conditions of Approval associated with this proposal,
44 adding that the gravel shoulder would be a minimum width of five feet.

Chairman Barnard complimented Mr. Whyte for his efforts with regard to this proposal.

APPLICANT:

PHIL GRILLO, representing *Miller Nash LLP* on behalf of the applicant, *Four D Development*, introduced himself and other members of the applicant team, including Alan DeHarpport; Dave DeHarpport; Anthony Yi, representing *Kitte-lson and Associates*; Mark Vandehey, representing *Kittelson and Associates*; Jay Harris, representing *Harris, McMonagle Engineering*; Laurie Wall, representing *Miller Nash LLP*; Allison Rhea, representing *Rhea Environmental Consulting, LLC*; and Terrence Flannagan representing *Flannagan and Associates*.

Mr. Grillo discussed the situation involving the original proposal, denial by the Planning Commission, appeal to the City Council, and remand back to the Planning Commission for consideration. Emphasizing that this remand does not involve an error on the part of the Planning Commission, he explained that the applicant had requested the remand in the belief that they could address all of the issues of concern. Expressing his opinion that staff had adequately summarized the applicant's revisions within the PUD/CUP Staff Report, he referred to pages 8 and 9 and briefly discussed the issues that had created problems with the original proposal and described how these issues had been addressed.

Mr. Grillo mentioned an agreement between the applicant and Susan Mosher, the property owner to the north, noting that because she intended to remain on the property, she had requested that the gates remain. He explained potential contingencies with regard to bypassing these gates, adding that one of these options involved when Ms. Mosher sells the remainder of her property, which occurred in April 2003, which allows the applicant to open the street and fulfill the Condition of Approval proposed by staff.

Commissioner Johansen requested clarification with regard to the temporary alignment to the east, suggesting that now that the applicant has control of the property it should be possible to address the future alignment as well.

Mr. Grillo displayed an illustration of the site, indicating the extension of SW Diamond View Way up to SW Nora Road, observing that this provides the opportunity to avoid a temporary situation. Noting that

1 this basically involves a timing issue, he pointed out that the
2 transactions with Ms. Mosher have not yet closed.

3
4 Mr. Grillo referred to the setback issue, observing that it involves three
5 types of rear yard setbacks with particular changes proposed.
6 Referring to the four corner lots, specifically Lots 1, 20, 22, and 36, he
7 noted that the applicant is requesting a 15-foot rear yard setback to
8 the house, with a 10-foot rear yard setback to the deck. He mentioned
9 the back-to-back interior lots, specifically three tiers of lots, Lots 14 ,
10 15, 16, 17, 18, and 19, Lots 30, 31, 32, 33, and 34, and Lots 37, 38, and
11 39, observing that the applicant is requesting a 20-foot rear yard
12 setback to the house and a 15-foot rear yard setback to the deck. He
13 pointed out that the third group involves the common open space,
14 noting that the applicant has requested a 15-foot rear yard setback to
15 the house and a five-foot rear yard setback to the deck. He explained
16 that the Staff Report had suggested a ten-foot rear yard setback to the
17 deck, rather than the requested five feet, adding that the applicant is
18 willing to accept this compromise.

19
20 Referring to page 41 of the PUD/CUP Staff Report, Mr. Grillo observed
21 that he had prepared a brief letter requesting that Condition of
22 Approval No. 9.a be amended, as follows: "...provided that ~~decks are~~
23 ~~not be constructed to a height that is higher than eleven feet from the~~
24 ~~existing or finished grade as shown on the approved Site Development~~
25 **Plan the floor of the rear yard decks shall not be constructed to**
26 **a height that is higher than the elevation of the finished grade**
27 **of the main floor.**"

28
29 **LAURIE WALL**, representing *Miller Nash LLP*, distributed copies of
30 the letter referenced by Mr. Grillo, dated May 14, 2003, and copies of
31 the *Conceptual Cross Section - 25' Setback*.

32
33 Mr. Grillo briefly discussed Condition of Approval No. 9 and explained
34 the conceptual drawings distributed by Ms. Wall, noting that the
35 purpose of the set-back is to create separation between structures as
36 well as to provide rear yard areas, rather than for the purpose of
37 protecting open space, which is addressed through the buffer area. He
38 mentioned the Condition of Approval proposed by Mr. Duggan with
39 regard to the timing issue between the Sunrise at Cooper Mountain
40 and Azoic Terraces developments, observing that the applicant is
41 willing to accept staff's recommendations. Concluding, he offered to
42 respond to questions.

43

1 Commissioner Bliss requested clarification with regard to the acreage
2 as it pertains to the density requirements, observing that his own
3 calculations indicate a minimum density requirement of 78 units. He
4 pointed out that the open space area is shown as 188,000, rather than
5 88,000 square feet. Expressing his appreciation of the applicant's
6 efforts to address the majority of the issues, he mentioned that his
7 concerns with regard to structural instability as it pertains to potential
8 seismic activity had not been resolved.

9
10 **DAVE DeHARPPORT**, representing the applicant, *4 D Development*,
11 clarified that effective April 1, 2003, the State of Oregon adopted a new
12 residential building code, which he referred to as the *International*
13 *Residential Code*, emphasizing that the seismic standards are more
14 substantial than those within the previous code.

15
16 Commissioner Bliss indicated that Mr. DeHarpport's information
17 satisfies his concerns with regard to potential seismic activity.

18
19 Commissioner Maks referred to access easements to Tract E.

20
21 Mr. Grillo stated that one of the access points would be located on the
22 east side of Lot 56, adding that another access point would be coming
23 off of the water quality facility.

24
25 Commissioner Maks requested clarification with regard to the grade of
26 the connection to SW Nora Road and the direction from which the
27 vehicles would be coming.

28
29 **MARK VANDEHEY**, representing *Kittelson & Associates*, stated that
30 an estimate of the traffic that would be diverted from both SW
31 Spellman Road and SW Red Rock Way as a result of this connection
32 had been provided within Table 5 on page 23. He pointed out that this
33 would be an attractive route that would possibly generate additional
34 traffic beyond the traffic diverted from other routes.

35
36 Mr. Wooley advised Commissioner Maks that Sheet 6 indicates that
37 the grade of this connection would be no greater than 15%.

38
39 Observing that he had a difficult time understanding the letter
40 submitted by the Friends of Cooper Mountain, Mr. VanDeHey pointed
41 out that this basically involves a survey with regard to where these
42 vehicles will go. He explained that most will continue to utilize SW
43 Spellman Road, as opposed to cutting through the neighborhood,

1 expressing his opinion that this would provide a quicker and more
2 attractive route.

3
4 Mr. Sparks noted that John Dalby from *Tualatin Valley Fire & Rescue*
5 (*TVF&R*) is able to respond to Commissioner Maks' question with
6 regard to the maximum grade issue.

7
8 **JOHN DALBY**, representing *TVF&R*, clarified that a 10% maximum
9 grade is the standard on private roadways, adding that *TVF&R* also
10 accepts the City of Beaverton and Washington County road design
11 standards of 15% and that anything greater than that 15% would
12 require negotiation. He further explained that *TVF&R* would be
13 concerned with any grade between 15% and 20%, emphasizing that
14 any grade greater than 20% is not acceptable.

15
16 Commissioner Johansen noted that he disagrees with Mr. Grillo's
17 statement indicating that the market study is not important, adding
18 that the Development Code is absolutely clear with regard to this issue
19 involving a PUD.

20
21 Mr. Grillo apologized to Commissioner Johansen for this oversight.

22
23 Referring to the applicant's appeal dated December 27, 2002,
24 Commissioner Johansen mentioned the statement that the applicant
25 did not anticipate the Planning Commission's disagreement with staff
26 and other agencies. He pointed out that while the Commission
27 respects staff's position, it is not at all unusual for them to disagree.

28
29 Mr. Grillo explained that while the applicant had anticipated the
30 possibility of the Planning Commission disagreeing with staff, they
31 had not been able to determine what the specific issues would be.

32
33 Commissioner Johansen requested clarification with regard to the
34 timing of the connection relative to the construction schedules for the
35 Sunrize at Cooper Mountain and Azoic Terraces developments.

36
37 Mr. Dave DeHarpport clarified that the construction of the connection
38 from SW Diamond View Way to SW Nora Road would occur prior to
39 any homebuilding activities on the site, adding that access for the
40 home construction would occur from SW Nora Road via SW Diamond
41 Way.

42
43 Mr. Sparks pointed out that issuance of the Building Permit would
44 necessitate submittal of a final plat for the property, adding that this

1 would not occur until the utilities and infrastructure, including the
2 road in question, are in place.

3

4 Mr. Duggan explained that it is necessary to have adequate
5 infrastructure in place to allow the construction of single-family
6 building to occur, emphasizing that this is in order to make certain
7 that appropriate timing is there.

8

9 Commissioner Winter referred to page 16 of the original PUD/CUP
10 Staff Report, specifically the statement that it would be the
11 responsibility of each lot owner to maintain the trees to be preserved
12 within these conservation easement areas, and requested clarification
13 with regard to the standard involved and whether the cost would be
14 the responsibility of the individual homeowner.

15

16 Mr. Grillo explained that he anticipates that the standards would be
17 determined as the CC&R's are prepared, observing that these
18 standards would most likely be reviewed by the City Attorney, adding
19 that the applicant is now willing to work with an HOA

20

21 Commissioner Winter suggested the possibility of reducing the front
22 setbacks rather than the rear setbacks.

23

24 Mr. Grillo noted that while this could be done, reducing the front
25 setbacks instead of the rear setbacks could create a potential issue
26 with the length of the driveways, adding that it is preferable to have
27 the ability to park a vehicle in the driveway without encroaching upon
28 the sidewalk.

29

30 Chairman Barnard questioned which side of SW Nora Road would be
31 improved through the addition of a five-foot shoulder.

32

33 Observing that this has not yet been determined for certain, Mr. Grillo
34 advised Chairman Barnard that he believes that this would occur on
35 the same side of the road where the sewer is installed, adding that
36 sewer lines are typically located on the north side of the road.

37

38 On question, Mr. Sparks informed Chairman Barnard that the
39 developer for Azoic Terraces would be required to provide a half-street
40 improvement, adding that this involves a standard Condition of
41 Approval.

42

43 9:08 p.m. until 9:18 p.m. – recess.

1 **PUBLIC TESTIMONY:**

2
3 **CHERYL PIPPIN** pointed out that the back of her property involves
4 green space/natural resource area that includes a creek, emphasizing
5 that she would like the applicant to be required to install a solid chain-
6 link fence between the property lines.

7
8 On question, **SUSAN MOSHER** indicated that although she had
9 submitted a yellow testimony card, she does not intend to testify at
10 this time.

11
12 **DAVID MOYLE** expressed his appreciation to members of the
13 Planning Commission for their efforts, expressing his appreciation that
14 the current proposal is an improvement over the original proposal.
15 Observing that his major concern involved the potential encroachment
16 of the 35 degree slope, specifically with regard to Lots 53, 54, and 55 in
17 particular, he pointed out that this would result in a severe impact to
18 the stream as well as an increased loss of vegetation along the steep
19 slopes.

20
21 Commissioner Bliss requested clarification with regard to Mr. Moyle's
22 reference to the 35 degree slope.

23
24 Mr. Moyle advised Commissioner Bliss that the topographic maps
25 indicated that the slope is 35 degrees.

26
27 Commissioner Bliss informed Mr. Moyle that he believes that the slope
28 is actually only 25 degrees, noting that this criterion with regard to
29 buffers is actually established by *Clean Water Services* (CWS).

30
31 **MARK SUETHEN** pointed out that he had dealt with numerous
32 restrictions when he had built his home which is located adjacent to
33 Green Belt, adding that he is concerned with trespassing issues
34 because access to that area is not inaccessible on the Bishop's Ridge
35 side. He emphasized that while he is aware that the codes of changed,
36 he was not allowed to encroach upon that area when his home was
37 constructed, and questioned why this developer should be allowed to do
38 something existing residents were not allowed to do.

39
40 **MARK RUNBERG**, representing the *Bishop's Ridge Neighborhood*
41 *Association Board*, stated that the CC&R's for Bishop's Ridge do state
42 that no fence or infringement into the natural resource area can be
43 located beyond 25-feet from the rear of the foundation. He pointed out
44 that the current proposal is inconsistent with Development Code

1 Section 20.05.50, which clearly establishes rear yard setbacks of 25-
2 feet, adding that this is also consistent with the existing neighborhood
3 and surrounding areas. Concluding, he requested clarification with
4 regard to the City of Beaverton's liability by approving these variances
5 on the setbacks in the event of a major windfall, land slippage, or a
6 forest fire.

7
8 Commissioner Bliss briefly discussed his experiences with homes on
9 lots with numerous trees, expressing his opinion that Mr. Runberg's
10 concerns should be addressed by routine maintenance that potentially
11 eliminates or decreases risks.

12
13 Chairman Barnard clarified that the Planning Commission serves a
14 different function and is not familiar with the civil liability of the City
15 of Beaverton.

16
17 On question, **DON KINZER** indicated that although he had submitted
18 a yellow testimony card, he does not intend to testify at this time.

19
20 **KATHY SAYLES** expressed her appreciation of the Planning
21 Commission's former decision, adding that she is still concerned with
22 the situation involving the streams, and submitted a copy of a letter
23 from *Friends of Beaverton's Johnson Creek* addressed to Ivan Kraemer
24 concerning the Deer Park development plan. Observing that Mark
25 Hereim shares her concerns, she pointed out that the developer of
26 Sunrise at Cooper Mountain intends to reduce the rear setbacks from
27 25-feet to ten-feet. She objected to the proposed split-rail fencing,
28 emphasizing that there should be no improvements in these wild
29 areas. Concluding, she pointed out that these areas should be
30 maintained in their natural wild state, adding that while they are
31 small, they are still important.

32
33 **DAVID STEIN** discussed the current and potential routes utilized by
34 residents of the subdivision, adding that there is a great deal of
35 concern that the gates have been mitigated away.

36
37 **BETH WATERMAN-HUKARI** explained that she is basically
38 concerned with five issues, as follows:

- 39
40 1. The potential elimination of the gates, the situation involving
41 the road to SW Nora Road off of SW Diamond Way, and
42 specifically whether this road would be public or private;

2. The wall construction on the development, specifically the western portion of the project, with regard to the type of materials to be utilized;
3. The type and height of fencing on the western portion of the property;
4. Who insures the stability of the wall and who is liable if the wall collapses; and
5. Whether there is a gate at the north end of SW 166th Avenue, next to the Rexing property, which is also designated as SW Nora Road on the map.

Chairman Barnard advised Ms. Waterman-Hukari with regard to the process, observing that either staff or the applicant would be able to respond to her questions and concerns.

Ms. Waterman-Hukari questioned whether SW Diamond Way would be a public road constructed through the project to SW Nora Road on the north end.

Commissioner Maks informed Ms. Waterman-Hukari that the design and materials would be reviewed by the Board of Design Review, adding that they are qualified to respond to her concerns. Referring to the issue of the gate, he pointed out that although staff has made a recommendation, a decision has not yet been made.

Referring to the potential stability of the wall, Commissioner Bliss explained that this wall would be designed by a registered civil engineer, adding that staff would review all of the information.

Mr. Sparks stated that Commissioner Maks and Commissioner Bliss have addressed Ms. Waterman-Hukari's questions fairly thoroughly, emphasizing that a single-family project would not automatically involve a design review process.

JORGE CARBO discussed the issue involving the gates, requesting that this proposal not be approved until this issue is clarified. He expressed his concern with regard to the safety of the children on SW Spellman Drive, and suggested that members of the Planning Commission take an objective look at the unreasonable situation involving the commute times for the residents of the area.

Referring to the safety issue on SW Spellman Drive, Commissioner Johansen questioned if the residents had considered the possibility of forming a Local Improvement District (LID) for sidewalk

1 improvements or whether this has ever been suggested by Washington
2 County. Expressing his opinion that some of these issues are actually
3 self-imposed, he requested information with regard to any actions the
4 residents had taken to resolve these issues.

5

6 Mr. Carbo advised Commissioner Johansen that he does not agree that
7 these issues are self-imposed, emphasizing that safety would become a
8 much greater issue with the addition of the proposed development.

9

10 **APPLICANT REBUTTAL:**

11

12 Referring to the issue of gates, Mr. Grillo stated that the initial
13 contract between *4 D Development* and Susan Mosher is part of the
14 record, adding that it might be helpful to focus on the terms of that
15 contract, specifically that once the sale of the remainder of the
16 property closes, this will enable the developer to eliminate the gates.

17

18 Commissioner Johansen advised Mr. Grillo that the public would like
19 to determine whether there would be unrestricted access from SW
20 Diamond View Way to SW Nora Road.

21

22 Mr. Grillo assured Commissioner Johansen that the appropriate
23 connection would be made as part of this development and that the
24 access from SW Diamond View Way to SW Nora Road would
25 eventually be unrestricted.

26

27 Mr. Grillo briefly discussed the different functions of the CWS buffer
28 and the City's setback requirements, as well as protection of natural
29 resources, the fencing issue, and traffic safety.

30

31 Mr. VanDeHey explained that the applicant had been conditioned and
32 just received approval from Washington County for the proposed sight
33 distance modifications at SW 170th Avenue and SW Spellman Drive.
34 He mentioned that the impact to that intersection, SW Red Rock Way,
35 and SW 170th Avenue would be less, adding that because the traffic in
36 that direction would decrease, the safety would be improved.

37

38 Referring to the Significant Natural Resource Area, Commissioner
39 Bliss questioned whether the applicant intends to locate a pathway in
40 this area and pointed out that the Division of State Lands (DSL) does
41 not approve of pathways along corridors.

42

43 Mr. Grillo clarified that this area would be a passive, rather than
44 active amenity.

1 Mr. Whyte summarized that several minor changes have been
2 suggested by the Commission, adding that staff is receptive to these
3 changes, and briefly discussed staff's issues concerning the language
4 proposed by Mr. Grillo with respect to Condition of Approval No. 9.a.
5

6 Mr. Wooley clarified the situation with regard to the gates, observing
7 that Condition of Approval No. 15 indicates that there will be no gates
8 on SW Diamond View Way, adding that he does not anticipate that
9 any of these streets would be gated in the future.
10

11 Mr. Sparks mentioned Mr. Duggan's proposed Condition of Approval,
12 requesting that this be referenced as Exhibit 2.11, adding that the
13 applicant has entered into a letter dated May 14, 2003, which would be
14 referenced as Exhibit 3.8, the graphic reference by Mr. Whyte would be
15 referenced as Exhibit 3.9, and the correspondence referenced by Mr.
16 Whyte in his opening comments would be referenced as Exhibit 4.6,
17 Exhibit 4.7, Exhibit 4.8, Exhibit 4.9, and Exhibit 4.10.
18

19 Assistant City Attorney Ted Naemura referred to Condition of
20 Approval No. 2 for the PUD/CUP, expressing his opinion that the
21 second sentence should be eliminated.
22

23 The public portion of the Public Hearing was closed.
24

25 Expressing his support of the applications relating to this proposal,
26 Commissioner Maks noted that he would revise Condition of Approval
27 No. 15 as follows: "The two gates shown on the proposed extension of
28 SW Diamond View Way...", adding that this would resolve the issue
29 with regard to the gates. He advised Mr. Moyle that he appreciate his
30 concerns, observing that the current Development Code is far more
31 stringent than the previous Development Code. He pointed out that
32 he is appreciative of Mr. Runberg for directly addressing code and
33 criteria, emphasizing that many of the issues that must be considered
34 conflict with one another. He mentioned rewording issues on page 41,
35 6.e, corrections with regard to dirt and soil in Condition of Approval
36 No. 3.b, and questions pertaining to permanent and temporary fencing
37 and other fencing issues, issues with colored flagging, storage, modified
38 Condition of Approval No. 9.a, the Duggan Condition of Approval, and
39 modifications to Condition of Approval No. 2 on page 38.
40

41 Commissioner Voytilla stated that his issues with the original
42 application had been addressed appropriately, adding that he is in
43 support of the proposal.
44

1 10:36 p.m. – Mr. Duggan left.

2
3 Commissioner Johansen expressed his opinion that the first
4 application had been flawed, adding that he is in support of the current
5 application, which is a great improvement.

6
7 Commissioner Winter expressed his support of the proposal, adding
8 that he concurs with the statements of his fellow Commissioners.

9
10 Commissioner Bliss stated that he supports the proposal, which would
11 be an asset to the community, adding that his experiences have given
12 him confidence with regard to the durability of a split-rail fence.
13 Referring to the PUD/CUP, he pointed out that he would like to amend
14 Condition of Approval No. 6e as follows: “shall be maintained and
15 repaired as needed **by individual property owners.**” He noted that
16 Condition of Approval No. 9.a should be amended, as follows:
17 “provided that decks are not **to** be constructed to...”

18
19 Commissioner Pogue expressed his support of the applications, adding
20 that they meet applicable criteria, requesting that his fellow
21 Commissioners consider the prohibition of gates, with the exception of
22 the access easements and dependent upon the type of fence, and noted
23 that he approves of Mr. Duggan’s proposed Condition of Approval.

24
25 Chairman Barnard stated that he supports the application, adding
26 that he would like to hear staff’s recommendations with regard to
27 revisions to the Conditions of Approval.

28
29 Commissioner Maks expressed his opinion that the fence issue should
30 be addressed first.

31
32 Mr. Sparks suggested that the Planning Commission should make a
33 decision at this time, adding that Commissioner Maks should submit
34 his Conditions of Approval and allow staff to prepare a Land Use
35 Order for the Chairman to review and sign.

36
37 10:46 p.m. – Mr. Gustafson and Mr. Wooley left.

38
39 Commissioner Maks requested input with regard to the type of fencing
40 to be installed around the natural resource area tracts.

41
42 Commissioner Johansen expressed concern with discouraging access to
43 that natural resource area, noting that written testimony suggests a

1 preference for the green vinyl-coated chain-link fencing, and pointed
2 out that a height of eight feet sounds reasonable.

3

4 Chairman Barnard mentioned that both the Staff Report and applicant
5 have recommended a height and style of fencing that is based upon
6 factual information and design.

7

8 Mr. Whyte explained that staff has proposed a five-foot high green
9 vinyl-coated chain-link fence for Lots 40 through 55.

10

11 Commissioner Voytilla expressed concern that a chain-link fence would
12 impede the flow of the wildlife that lives in this area, observing that
13 the main purpose of the fence is delineation, adding that he concurs
14 with Commissioner Bliss's simple suggestion of a cedar split rail fence.

15

16 Commissioner Winter noted that while he is appreciative of the
17 wildlife issues mentioned by Commissioner Voytilla, he supports the
18 green vinyl-coated chain-link fence.

19

20 Commissioner Bliss reiterated that he is in support of the cedar three-
21 rail fence, expressing his opinion that the wildlife should have the
22 ability to travel unrestricted throughout these areas.

23

24 Commissioner Pogue stated that he supports the cedar split-rail fence
25 described by Commissioner Bliss.

26

27 Commissioner Maks noted that he supports the green vinyl-coated
28 chain-link fence surrounding the significant natural resource area,
29 adding that he prefers the cedar split-rail fence for the conservation
30 easements.

31

32 Observing that the vote is currently 3:3 pertaining to the issue of the
33 green vinyl-coated chain-link fence versus the cedar split-rail fence,
34 Chairman Barnard stated that for the purpose of consensus, he
35 concurs with the applicant's proposal for the green vinyl-coated chain-
36 link fence.

37

38 Commissioner Maks stated that he would like a 42-inch cedar three-
39 rail fence on the conservation easements.

40

41 Commissioner Pogue, Bliss, Johansen, Winter, and Voytilla and
42 Chairman Barnard all concurred with Commissioner Maks' proposal
43 for a 42-inch cedar three-rail fence on the conservation easements.

44

1 Commissioner Maks suggested an eight-foot CMU block wall around
2 the water retention facility.

3
4 Mr. Whyte clarified that the green vinyl-coated chain-link fence is
5 limited to the back yards.

6
7 Commissioner Maks mentioned that Condition of Approval No. 6-e has
8 been amended, as follows: "...maintained and repaired as needed **by**
9 **individual property owners.**" He also mentioned that Condition of
10 Approval No. 9-a has been amended, as follows: "...provided that
11 decks are not **to** be constructed to..."

12
13 Commissioner Voytilla referred to Mr. Grillo's amendment to
14 Condition of Approval No. 9-a, which addresses the height of the
15 decking. At the request of Commissioner Maks, he clarified this
16 amendment, as follows: "...provided that ~~decks are not be constructed~~
17 ~~to a height that is higher than eleven feet from the existing or finished~~
18 ~~grade as shown on the approved Site Development Plan~~ **the floor**
19 **elevation of the rear yard decks shall not be constructed to an**
20 **elevation that is higher than the elevation of the finished main**
21 **floor.**"

22
23 Commissioners Winter, Johansen, Commissioner Voytilla's
24 amendments to Condition of Approval No. 9-a.

25
26 Commissioner Maks mentioned that both Condition of Approval No.
27 3.d and 6-e should be amended, as follows: "...shall be maintained and
28 repaired as needed **by individual property owners.**"

29
30 Commissioner Maks mentioned that Condition of Approval No. 3-b
31 should be amended, as follows: "...refuse, junk, lawn clippings, **soil**, or
32 unsightly or unsanitary material..."

33
34 Commissioner Maks **MOVED** and Commissioner Bliss **SECONDED** a
35 motion to suspend the 11:00 p.m. rule until 11:15 p.m.

36
37 Motion **CARRIED**, unanimously.

38
39 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
40 a motion to approve CUP 2002-0004 and APP 2003-0001 – Sunrise at
41 Cooper Mountain Planned Unit Development Conditional Use Permit,
42 based upon the testimony, reports and exhibits, and new evidence
43 presented during the Public Hearings on the matter, and upon the
44 background facts, findings and conclusions found in the Staff Report

dated May 7, 2003, as amended, and previously submitted Staff Reports and Memorandums, including Facilities Review Conditions of Approval, as amended, and Conditions of Approval Nos. 1 through 15, with amendments, as follows:

2. Planned Unit Development approval is contingent upon the approval of the applicant's associated request for Subdivision approval, Case Files No. APP 2003-0003, and Tree Preservation Plan approval, Case File No. APP 2003-0002. ~~Planned Unit Development approval and shall become null and void if the associated requests for Subdivision and Tree Preservation Plan are not ultimately approved by the City.~~
- 3.b That no dumping or disposal of any ashes, trash, garbage, refuse, junk, lawn clippings, **soil**, or unsightly or unsanitary material shall be permitted or maintained within conservation easements identified for resource protection.
- 3.e. That the chain-link or wood fence placed along the easement lines of Lots 10 through 12 and Lots 56 through 59, at the ~~minimum height of two feet~~ **a height of 42-inches** is to remain in place as delineation for the conservation easement boundaries and shall be maintained and repaired as needed **by individual property owners.**
- 6.e That the chain-link fence placed along the rear property lines of Lots 40 through 55 is to remain in place as delineation for the Tract boundaries and shall be maintained and repaired as needed **by individual property owners.**
- 9.a Rear Yard Setbacks allowed at 15 feet: Rear Yard Building Setbacks for Lots 1, 20, 22, 36, and 40 through 55 shall be 15 feet for the dwelling and ten feet for decks over 30 inches in height provided that ~~decks are not be constructed to a height that is higher than eleven feet from the existing or finished grade as shown on the approved Site Development Plan~~ **the floor elevation of the rear yard decks shall not be constructed to an elevation that is higher than the elevation of the finished main floor.**
15. The two gates shown **on** the proposed extension of SW Diamond View Way shall be removed from the plan to provide a vehicle access that is open to public via SW Nora Road (The Arterial).

1 Motion **CARRIED** by the following vote:

2 **AYES:** Maks, Winter, Bliss, Johansen, Pogue, Voytilla,
3 and Barnard.

4 **NAYS:** None.

5 **ABSTAIN:** None.

6 **ABSENT:** None.

7
8 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
9 a motion to approve TPP 2002-0005 and APP 2003-0001 – Sunrise at
10 Cooper Mountain Tree Preservation Plan, based upon the testimony,
11 reports and exhibits, and new evidence presented during the Public
12 Hearings on the matter, and upon the background facts, findings and
13 conclusions found in the Staff Report dated May 7, 2003, as amended,
14 and previously submitted Staff Reports and Memorandums, including
15 Conditions of Approval Nos. 1 through 5.

16
17 Motion **CARRIED** by the following vote:

18
19 **AYES:** Maks, Winter, Bliss, Johansen, Pogue, Voytilla,
20 and Barnard.

21 **NAYS:** None.

22 **ABSTAIN:** None.

23 **ABSENT:** None.

24
25 Commissioner Maks **MOVED** and Commissioner Bliss **SECONDED** a
26 motion to approve SB 2002-00010, APP 2002-0012, and APP 2003-0003
27 – Sunrise at Cooper Mountain Subdivision, based upon the testimony,
28 reports and exhibits, and new evidence presented during the Public
29 Hearings on the matter, and upon the background facts, findings and
30 conclusions found in the Staff Report dated May 7, 2003, as amended,
31 and previously submitted Staff Reports and Memorandums, including
32 Condition of Approval No. 1.

33
34 Motion **CARRIED** by the following vote:

35
36 **AYES:** Maks, Bliss, Johansen, Pogue, Voytilla, Winter,
37 and Barnard.

38 **NAYS:** None.

39 **ABSTAIN:** None.

40 **ABSENT:** None.

41
42 **MISCELLANEOUS BUSINESS:**

43
44 The meeting adjourned at 11:07 p.m.